

Kathleen L. Wieneke, Bar #011139
Christina Retts, Bar #023798
JONES, SKELTON & HOCHULI, P.L.C.
2901 North Central Avenue, Suite 800
Phoenix, Arizona 85012
Telephone: (602) 263-1700
Fax: (602) 200-7858
kwieneke@jshfirm.com
cretts@jshfirm.com

Attorneys for Defendants City of Phoenix,
and City of Phoenix Police Department

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

ANTHONY ARAMBULA and LESLEY
ARAMBULA, husband and wife; MATTHEW
ARAMBULA and ZACHARY ARAMBULA,
through their mother and next friend, LESLEY
ARAMBULA,

Plaintiffs,

v.

CITY OF PHOENIX, a public entity; CITY
OF PHOENIX POLICE DEPARTMENT;
DZENAN AHMETOVIC and JAN DOE
AHMETOVIC, husband and wife; SEAN
COUTTS and JANE DOE COUTTS, husband
and wife; BRIAN LILLY and JANE DOE
LILLY, husband and wife; JOHN DOE
OFFICERS I-X; JANE DOE OFFICERS I-X;
JOHN DOE SUPERVISORS I-X; JANE DOE
SUPERVISORS I-X; JOHN DOES I-X; JANE
DOES I-X; BLACK CORPORATIONS I-S;
and WHITE CORPORATIONS I-X,

Defendants.

NO. 2:09-cv-02103

NOTICE OF REMOVAL

Defendant City of Phoenix, which has been served with the Complaint
referenced below, through undersigned counsel and pursuant to 28 U.S.C. §1441(b),
hereby notices the removal of the above-captioned case, Maricopa County Superior Court
Cause No. CV2009-029358, from the Arizona Superior Court, County of Maricopa, to

1 this Court and in support thereof assert:

2 1. This Court has jurisdiction pursuant to 28 U.S.C. § 1331. This action
3 may be removed pursuant to 28 U.S.C. § 1441(b) because it is brought pursuant to 42
4 U.S.C. section 1983 and is based on alleged violations of the Fourth, Eighth and
5 Fourteenth Amendments to the United States Constitution.

6 2. Defendant City of Phoenix Police Department has been named and
7 served with Plaintiffs' Complaint, but is a non-jural entity that can neither sue or be sued
8 and can neither provide or withhold consent to removal. Plaintiffs have, or will be,
9 moving to voluntarily dismiss the City of Phoenix Police Department from their lawsuit.
10 To the extent that the City of Phoenix Police Department has not yet been dismissed from
11 the Plaintiffs' Complaint, the City of Phoenix Police Department participates in this
12 removal without waiving any argument that it is a non-jural entity and asserts that its
13 participation does not constitute an appearance in this action or an admission of any sort
14 that the City of Phoenix Police Department is a proper party or jural entity in this, or any
15 other matter.

16 3. On or about September 16, 2009, this action was commenced against
17 Defendants in the Superior Court of the State of Arizona, in and for the County of
18 Maricopa under the caption "CITY OF PHOENIX, a public entity; CITY OF PHOENIX
19 POLICE DEPARTMENT; DZENAN AHMETOVIC and JAN DOE AHMETOVIC,
20 husband and wife; SEAN COUTTS and JANE DOE COUTTS, husband and wife;
21 BRIAN LILLY and JANE DOE LILLY, husband and wife; JOHN DOE OFFICERS I-X;
22 JANE DOE OFFICERS I-X; JOHN DOE SUPERVISORS I-X; JANE DOE
23 SUPERVISORS I-X; JOHN DOES I-X; JANE DOES I-X; BLACK CORPORATIONS I-
24 S; and WHITE CORPORATIONS I-X." A copy of that Complaint is attached hereto as
25 Exhibit "1." Defendant City of Phoenix and the City of Phoenix Police Department
26 received initial notice of this pleading on September 16, 2009, when a copy of the
27 Complaint along with a Summons directed to the Defendant City of Phoenix and City of
28 Phoenix Police Department was served.

1 4. This Notice of Removal is being filed within thirty days after initial
2 service of the Complaint and is therefore timely filed under 28 U.S.C. § 1446(b).

3 5. Copies of all remaining pleadings currently on file with the Maricopa
4 County Superior Court are attached as part of Exhibit “ 2.”

5 6. A Notice of Filing Notice of Removal, a true and correct copy of
6 which is attached as Exhibit “3,” has been filed in the Arizona Superior Court, County of
7 Maricopa, on behalf of all Defendants.

8 7. Upon information and belief, Defendants Dzenan Ahmetovic, Sean
9 Coutts, and Brian Lilly have not been served, but consent to removal of this action.

10 WHEREFORE, Defendants request that this action be removed to this
11 Court.

12 DATED this 6th day of October, 2009.

13 JONES, SKELTON & HOCHULI, P.L.C.

14
15 By s/ Christina Retts

16 Kathleen L. Wieneke

17 Christina Retts

18 2901 North Central Avenue, Suite 800

19 Phoenix, Arizona 85012

20 Attorneys for Defendants City of Phoenix,
21 and City of Phoenix Police Department
22
23
24
25
26
27
28

1 ORIGINAL electronically filed
2 this 6th day of October, 2009.

3 COPY mailed/e-mailed
4 this 6th day of October, 2009, to:

5 Michael Manning
6 Leslie E. O'Hara
7 John T. White
8 Stinson Morrison Hecker LLP
9 1850 North Central Avenue, Suite 2100
10 Phoenix, Arizona 85004

11 Attorneys for Plaintiffs

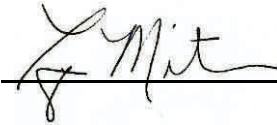
12 
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

COPY

SEP 16 2009



MICHAEL K. JEANES, CLERK
E. PEREZ, DEPUTY CLERK

Michael C. Manning (#016255)
Leslie E. O'Hara (#005923)
John T. White (#022091)
STINSON MORRISON HECKER LLP
1850 North Central Avenue, Suite 2100
Phoenix, Arizona 85004-4584
Tel: (602) 279-1600
Fax: (602) 240-6925
Email: mmanning@stinson.com
Attorneys for Plaintiffs

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

ANTHONY ARAMBULA and LESLEY)
ARAMBULA, husband and wife;)
MATTHEW ARAMBULA and)
ZACHARY ARAMBULA, through their)
mother and next friend, LESLEY)
ARAMBULA,)

Plaintiffs,

v.

CITY OF PHOENIX, a public entity;)
CITY OF PHOENIX POLICE)
DEPARTMENT; DZENAN)
AHMETOVIC AND JANE DOE)
AHMETOVIC, husband and wife;)
SEAN COUTTS AND JANE DOE)
COUTTS, husband and wife; BRIAN)
LILLY AND JANE DOE LILLY,)
husband and wife; JOHN DOE)
OFFICERS I-X; JANE DOE OFFICERS)
I-X; JOHN DOE SUPERVISORS I-X;)
JANE DOE SUPERVISORS I-X; JOHN)
DOES I-X; JANE DOES I-X; BLACK)
CORPORATIONS I-X; and WHITE)
PARTNERSHIPS I-X,)

Defendants.

No. CV2009-029358

COMPLAINT

(Jury Trial Demanded)

COMPLAINT

Plaintiffs Anthony, Lesley, Matthew, and Zachary Arambula, for their Complaint
against Defendants, hereby allege as follows:

JURISDICTION AND VENUE

1. Plaintiffs bring this action pursuant to 42 U.S.C. § 1983, the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution; and pendent state common law and statutory law. Plaintiffs are Anthony Arambula, Lesley Arambula, and their two minor children, Matthew and Zachary, through their mother and next friend, Lesley Arambula.

2. Plaintiffs have satisfied the provisions of A.R.S. § 12-821.01 by serving upon Defendants a Notice of Claim more than sixty (60) days prior to the date of the filing of this Complaint. Defendants have not responded to the Notice of Claim.

3. This Court has jurisdiction of Plaintiffs' federal law claims pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 1988. Additionally, this Court has jurisdiction over Plaintiffs' state and federal claims pursuant to Article 6, Section 14 of the Arizona Constitution.

4. Venue is proper in this Court pursuant to A.R.S. § 12-401, as the majority of parties are residents of Maricopa County, Arizona, and the events underlying this lawsuit occurred in Maricopa County.

GENERAL ALLEGATIONS

5. Plaintiffs reallege and incorporate, by this reference, their claims, facts, and allegations in the paragraphs above, as if set forth fully herein.

6. For all material times, Plaintiffs Anthony ("Tony") and Lesley Arambula ("Lesley") are individuals residing in Maricopa County, Arizona, who reside with their minor children, Plaintiffs Matthew and Zachary (collectively, the "Arambulas," "Plaintiffs," or the "family").

1 7. Defendant City of Phoenix (the "City") is a public, municipal entity, formed and
2 designated as such pursuant to Title 9 of the Arizona Revised Statutes and, as such, is subject
3 to civil suit and may be held independently liable as an entity and/or municipality, and/or
4 vicariously liable for the wrongful conduct of its officers, employees, agents, districts, and
5 divisions/sub-divisions, including (without limitation) the City of Phoenix Police Department
6 ("Police"), and the officers and employees of their divisions.

7 8. Upon information and belief, Defendant City of Phoenix Police Department
8 ("Police") is a subdivision of the City, pursuant to Chapter III, § 3 of the Charter of the City of
9 Phoenix, and an independent, jural entity subject to civil suit.

10 9. At all times material herein, Defendants Officer Lilly, Officer Ahmetovic, and
11 Sgt. Coutts (collectively referred to as "Officers"), were agents and employees of the City
12 and/or the Police who, at the time of the events complained of herein, were acting within the
13 course and scope of their employment by the City and/or Police and under color of law. These
14 individual Defendants engaged in wrongful conduct that allowed, caused, and/or contributed to
15 cause harm to Plaintiffs that caused Plaintiffs damages. Their actions and/or inactions
16 constitute actions of the City and/or the Police. The City and/or the Police are vicariously and
17 directly liable for their wrongful conduct, as alleged herein.

18 10. At all times material herein, Defendants Police John Does I-X and/or Police Jane
19 Does I-X (collectively "Police John Does") were officers, agents, and employees of the City
20 and/or the Police, acting within the course and scope of their employment and under color of
21 law. These individual Defendants engaged in wrongful conduct that allowed, caused, and/or
22 contributed to cause harm to Plaintiffs that caused Plaintiffs damages. Their actions constitute
23 actions of the City and/or the Police. The City and/or the Police are vicariously and directly
24 liable for their wrongful conduct, as alleged herein. (The specifically named Police employees
25 and the Police John Does are collectively referred to as "Officers.")
26

1 11. The City and all of its subdivisions and their agents and employees specifically
2 named herein or named as Does are collectively referred to herein as the "City" or
3 "Defendants."

4 12. The Defendants designated herein as Jane or John Doe spouses, including
5 (without limitation) Jane Doe Ahmetovic, Jane Doe Coutts, and Jane Doe Lilly, are the spouses
6 of the respective individually named Defendants and are so designated because the wrongful
7 conduct of the Defendants was engaged in for the benefit of their marital communities, thereby
8 rendering the spouses and marital communities of such Defendants liable for such conduct.

9 13. The true names, capacities, and relationships, whether individual, corporate,
10 partnership, or otherwise of all John and Jane Doe Defendants, Black Corporations, and White
11 Partnerships, are unknown at the time of the filing of this Complaint, and are being designated
12 pursuant to Ariz. R. Civ. P. § 10(f) and applicable federal and state law. Plaintiffs further
13 allege that all of the fictitiously named Defendants were jointly responsible for the actions,
14 events, and circumstances underlying this lawsuit, and that they proximately caused the
15 damages stated in this Complaint. Plaintiffs will amend the Complaint to name the
16 unidentified individuals once they have learned, through discovery, the identities and acts,
17 omissions, roles, and/or responsibilities of such Defendants sufficient for Plaintiffs to discover
18 the claims against them.

19 **FACTUAL BASIS OF CLAIMS FOR RELIEF**

20 **Introduction**

21 14. Wednesday evening, September 17, 2008, started out as a typical family night in
22 the Arambulas' small rented home. Lesley had just entered the home from the back patio.
23 Tony was sitting on the couch watching cartoons in their living room with their two year old
24 son, Zachary. Tony was thinking about going out to purchase a pie as a surprise dessert for his
25 family. Their oldest son, Matthew, was playing a game in his room.

1 15. Suddenly, the crack of two gunshots turned tranquility into terror and
2 transformed this family forever more. A moment later, an intruder crashed through the
3 Arambula's front window and plunged into the family's living room where Tony and Zachary
4 were sitting.

5 16. The intruder appeared "crazed" and wielded a 9 millimeter gun at Tony and
6 Zachary. Blessedly, the intruder did not fire on Tony or Zachary. Tony's relief was brief,
7 however. The intruder dashed down the hallway that led to Matthew's bedroom. Tony
8 grabbed Zachary and crawled for safety. After securing a safe spot for Zachary, Tony armed
9 himself with a pistol kept in his closet. Lesley, who had been standing at the rear door, came
10 into the home to check on her family. As she approached the back hallway, Lesley saw the
11 intruder as he made his way through the living room and toward their boys' bedroom. Lesley
12 was frantic with fright and told Tony that the intruder was now inside Matthew's bedroom,
13 with Matthew still in his room!

14 17. Thanking God that the intruder had not fired on his youngest son, Tony's fright
15 was renewed—this impaired menace was now with Matthew—in Matthew's small bedroom—
16 still armed with that 9 millimeter pistol. Tony knew he now had to act quickly, again, to now
17 rescue his second son from harm's way. Tony told Lesley to take Zachary, and get out of the
18 home, which she did. Tony then bravely approached the intruder in the boys' bedroom in
19 search of Matthew.

20 18. Tony carefully, but quickly, closed in on Matthew's room. The intruder was on
21 the floor of Matthew's bedroom. Tony pointed his gun downward at the intruder and ordered
22 him not to move. He held the intruder calmly at gunpoint and the intruder was compliant,
23 although the intruder continued to shout that someone was after him and going to get him.
24 Tony believed that the intruder was either crazy or high on drugs.
25
26

1 19. Tony could not see Matthew, but called out for him. Matthew, who hid in his
2 closet after hearing the initial gunshots, ran to his father's voice and his protection. Tony
3 ordered Matthew to go quickly to the safety of the back patio with his mother and Zachary and
4 to call 911 immediately. Then, Tony picked up the nearest telephone and called 911 for police
5 protection, while still holding the intruder calmly at gunpoint. Tony reported to the 911
6 operator that he was the homeowner and that he was holding the intruder at gunpoint.

7 20. Meanwhile, with both kids now clinging her side on the back patio, Lesley also
8 called 911 to report the intruder in her home. As it turns out, the Officers were already in the
9 neighborhood, looking for a "Hispanic male" who had reportedly threatened a woman in a
10 different house nearby.

11 21. Tony believed that his family's sudden and lethal peril had passed. He had acted
12 swiftly, bravely, and with a cool head and a calm hand. His family was safe. He had disarmed
13 and detained the intruder without unnecessary injury to anyone. Now, he thought, the terror of
14 the lethal threat had passed; he could relax and wait for the Police to arrive to relieve him. He
15 assumed that he would soon have his children in his arms and his wife by his side. No one, not
16 even the menacing intruder, would be hurt.

17 22. Tony had done everything just right, exactly the way the Phoenix PD would
18 simulate as the perfect homeowner response to a life-threatening menace and an impaired,
19 armed intruder.

20 23. While on the phone with 911, Lesley noticed the Officers come into the alley
21 behind her home. She yelled to them for help, telling them that there was an intruder inside the
22 Arambula home.

23 24. Officers had heard the "crash" (which turned out to be the Arambula window)
24 and rushed into the alleyway behind the Arambula residence, still looking for their suspect.
25 They did not know if the intruder was armed.
26

1 25. Three Officers entered the Arambula's backyard: Sgt. Coutts, Officer Lilly, and
2 Officer Ahmetovic. Officers Ahmetovic and Lilly looked for a way into the home, while Sgt.
3 Coutts walked directly to Lesley to speak with her. Lesley informed Sgt. Coutts that her
4 husband was the one inside, that her husband had a gun, and that he was holding the intruder at
5 gun point. She also told Sgt. Coutts that Tony and the intruder were the only ones inside her
6 home.

7 26. But Sgt. Coutts never spoke with the other two officers or ensured that they
8 understood the circumstances they were facing. He never conveyed the information Lesley
9 provided to him—that it was her husband holding the intruder at gun point!

10 **Officers Open Fire on Tony Without Caution or Warning**

11 27. Sgt. Coutts finished speaking with Lesley and met the other two Officers at the
12 back entrance. The Officers rushed into the home through the patio door, leaving Lesley and
13 the boys alone and unprotected on the patio, just a few feet away from the patio door.

14 28. Sgt. Coutts knew before he and his Officers entered the Arambula home that
15 Tony was holding the intruder at gun point and that Tony and the intruder were the only two
16 people left in the home.

17 29. Tony was still angled in the doorway of Matthew's bedroom at the time, holding
18 the intruder on the floor at gun point and holding the telephone to his ear. The 911 call
19 continued to record. Although the Officers were only feet away from Tony when they entered
20 the home, the 911 call does not record any commands, cautions, warnings, or announcements
21 by the Officers.

22 30. Tony had his back angled to the living room and to the Officers as they
23 approached him. He could not see the Officers from his vantage point. Tony held the gun in
24 his right hand and steadied himself near a half wall on his right side. He had his 911 call to his
25

1 left ear. With his back to the Officers, the wall on his right side, and the gun in his right hand,
2 the Officer could not possibly have seen Tony's gun when they arrived at the scene.

3 31. Tony had done the Officers' work for them. He held the incoherent and
4 irrational intruder at gunpoint without any harm to anyone. All that was left for the Police to
5 do was assume Tony's control of the situation, cuff the intruder, and remove him from the
6 Arambula home.

7 32. But, unbeknownst to Tony, the nightmare which he had put to the past with
8 perfect control, was about to turn into his family's new nightmare. The Police did not assume
9 the professional control that Tony had secured for them. Instead, when the Officers entered the
10 Arambula home, Officer Lilly immediately opened fire on Tony's back without any warning!
11 The first shot's exit wound left a gaping hole in the front of Tony's abdomen, on his left side,
12 large enough to fit an eight ounce Dixie cup. Then, Officer Lilly shot Tony five more times,
13 twice after Tony was already on the ground!

14 33. Tony cried out, "You just killed...you just killed the homeowner. The bad guy is
15 in there." The Officers then ran to the room where the intruder had remained restrained and
16 compliant to Tony's command. While they were quick to open fire on Tony without warning
17 or caution, the Officers gave the intruder verbal commands to come out of the room, and he
18 complied. The intruder was handcuffed and taken out of the home by the Officers, while Tony
19 still laid on the ground in his living room, bleeding from multiple gunshot wounds from his
20 trigger-happy protector's pistol.

21 Officers' Continuing Reckless Conduct

22 34. Officer Lilly is a Field Training Officer ("FTO") for the City. He was training
23 Officer Ahmetovic at the time he opened fire on Tony. FTOs are charged with the
24 responsibility of teaching other Officers how to remain cool, professional, and to follow proper
25

1 protocol, including responses to the usual and recurring situations that the Police face in the
2 field.

3 35. But Officer Lilly also admitted that it was only *after* Tony was laying, bullet-
4 ridden, on the ground that he assessed the situation. The 911 tape continued to record what
5 happened even after Officer Lilly unloaded his weapon into Tony, including Officer Lilly's
6 post-shooting, one word "assessment": "Fuck."¹

7 36. After Officer Lilly's "assessment," Tony was bleeding badly and struggling for a
8 breath on the floor of his own home, but Officers told this helpless victim to "shut the fuck
9 up." Tony then asked, "Officer, why did you kill me?" Tony received no answer.

10 37. Tony believed he was going to die; the 911 tape records his plaintive goodbye to
11 his family: "..., I love you...I love you." Then, Tony made what he believed was a dying
12 request to the Officers, he did not want his young family see him shot and bloodied.

13 38. Officers callously ignored his request and painfully dragged Tony, by his injured
14 leg, through the home and out to his backyard patio, where they left him bloodied and shot
15 right in front of Lesley, Matthew, and Zachary.

16 39. Lesley and the boys did not know who was shooting or who had been shot inside
17 their home. They heard the gunshots from only a few feet away. Of course, the shots scared
18 Lesley, Matthew, and Zachary. They were fearful not only for Tony, but also for themselves,
19 not knowing whether the armed, crazed, intruder would exit the home at any moment and fire
20 at them too.

21 40. As soon as the shots stopped, Lesley called 911 again to request an ambulance,
22 saying "someone just got shot." She had no idea at the time that the "someone" was Tony.
23
24

25 ¹ A transcript of the 911 call from Tony is attached as Exhibit A hereto and incorporated
26 by this reference.

1 The 911 call continues to record as, moments later, the Officers dragged Tony out of the home
2 and laid him right in front of her and the two boys, bullet-ridden and bloodied.

3 41. After that, the City treated the Arambulas callously; they treated the Arambulas
4 like suspects in a drug bust. Lesley and the boys were immediately rushed away and separated
5 from Tony, confined to a Police squad car for hours, while several officers interrogated Lesley.
6 Lesley was moved with such physical force by Officers that she sustained bruises.

7 42. Tony remembers lying on the concrete patio, all alone, thinking he would soon
8 die. He pled for someone to help him. Up to that point, he had received no medical attention
9 from the Police, even though the Police knew that they had shot the wrong man; the intruder
10 had already been apprehended by Officers and was taken into custody, and more Officers had
11 arrived on the scene. Still, Tony received no immediate help.

12 43. Instead, Tony lay on the patio, bleeding, and continuing to plead for help, as
13 Officer after Officer stepped over him on their way to attend to other apparently important
14 matters. After some time and still without any medical treatment or medical supervision, a few
15 Officers picked Tony up by his limbs—including those limbs shot-up by Officer Lilly—and
16 painfully carried him around the house. In the process, the Police hit Tony's head on a post as
17 they tried to squeeze him through the side gate. They then put him down in the gravel.

18 44. Tony, who had been shot six times by Police, had still not received any medical
19 attention even well after being shot. At that point, the Police decided to pick him up, again,
20 and place him on top of the hood of a Police squad car that had been running. The hood of the
21 car was so hot against Tony's bullet-ridden body that Tony screamed with pain. The Police
22 then drove the squad car down the street with Tony lying on top, writhing in pain!

23 45. Tony was eventually taken to the hospital by ambulance, where he was
24 immediately rushed to surgery.
25
26

Officer Lilly's Admission and the Beginning of a Police Cover-up

46. The Officers did not realize that they were being recorded by the 911 call that Tony had placed before the shooting. The 911 call continued to record even after Tony had been shot. In that recording, Officer Lilly admits to Sgt. Coutts, "we fucked up." Sgt. Coutts knew that Officers had just shot-up and likely killed an innocent homeowner and the husband of Lesley, with whom he had spoken before entering the home, instead of the armed intruder.

47. Sgt. Coutts was quick to commence the cover-up of their terrible mistake.

48. Sgt. Coutts asked Officer Lilly where Tony's gun was at the time Officer Lilly had opened fire on Tony. Officer Lilly admitted he did not know where Tony's gun was: "I don't know. I heard screaming and I fired."

49. Officer Lilly later admitted that he immediately fired at Tony's center mass area and kept shooting even while Tony laid still on the ground. He said he opened fire because he heard loud noises and saw someone who looked like he might be the "Hispanic" male they were pursuing and simply opened fire and unloaded his weapon in a shoot-to-kill attack on Tony's back, before ever assessing the situation and without ever giving any verbal commands. Obviously, none of the other Officers perceived the same threat; they did not shoot at Tony.

50. Still not knowing that he is being recorded on the 911 tape, Sgt. Coutts interrupted Officer Lilly's admission and apology with his assurance that the cover-up would commence: "That's all right. Don't worry about it. I got your back.....We clear?"

51. Just a few hours after Sgt. Coutts' chilling announcement of the commencement of the cover-up, it began in dishonorable earnest. Officer Lilly admitted on the 911 tape that he did not know where Tony's gun was and that he just heard screaming and started shooting, but now, later, Officer Lilly created a new version: he told the Police Internal Affairs investigator hours later that he fired after Tony pointed the gun in his direction in the "ready" position.

1 52. In a subsequent Police interview, Officer Lilly claims that he fired because he
2 was fearful for himself—not for anyone else—after he saw a man who might be “Hispanic”
3 down the hallway with a gun, even though Officer Lilly admitted that the gun was not pointed
4 at him, but angled toward the floor.

5 **Defendants’ Continued Callous Treatment of the Arambulas**

6 53. Lesley and the boys, who had been whisked away from Tony while he was laid
7 before them, shot and bloodied, on their patio, were being treated like suspects, held captive in
8 a Police squad car. All Lesley wanted was an update on her husband’s condition and a glass of
9 water. She was denied both. Officers refused to allow her or her boys to go to the hospital for
10 nearly four hours and even hurled suspicions at her, asking her, “What do you have to hide?”
11 Several different officers interrogated her for hours.

12 54. Meanwhile, the Police ordered the hospital staff to not reveal to the public or any
13 of the Arambulas’ friends or family that Tony was ever there. They also treated Tony like a
14 suspect, instead of the innocent victim and hero he was. Friends and family members tried to
15 see Tony and get access to him. Because of those Police orders, they were denied access and
16 even told by the hospital staff that they could not even confirm that Tony was at the hospital.

17 55. Lesley and the boys were also denied access to or information about Tony for
18 hours. Obviously, the Police wanted to question Tony before they let him see his loved ones.
19 And that is exactly what they did.

20 56. After undergoing hours of surgery following the shooting, Tony awoken to
21 immediately interrogation by Police detectives. Police asked him detailed questions about his
22 positioning and about the Officers and recorded his statement. Tony, still recovering groggy
23 and disoriented from surgery, tried his best to answer the questions. After the interview ended,
24 Police told Tony that, unfortunately, the intruder would only be cited and released because,
25 Police said, the intruder was unarmed. Tony was incredulous at their conclusion and asked the
26

1 Police if they had looked under Matthew's bed. The Police assured him that they had done so
2 and completed a thorough investigation, but promised to go back and look again. When the
3 Officers returned to the Arambula home, after their crime scene "professionals" had previously
4 "cleared" the crime scene, they found the intruder's 9 millimeter gun, in plain sight, under
5 Matthew's bed!

6 **The Growing and Uncertain Injury and Harm to the Arambulas**

7 57. The events of September 17 have devastated the Arambula family. They have
8 incurred significant damages as the result of the incident, which are ongoing and will increase
9 in the future.

10 58. Tony's billed medical costs stemming from the incident with Phoenix Police
11 have already exceeded \$250,000 and are expected to greatly increase in the future with the
12 additional care doctors have told him he will need.

13 59. Doctors initially told Tony that there was a high probability that his hand and
14 wrist would have to be amputated because of the injuries he sustained. Thus far, they have
15 avoided amputation. But his future prognosis with respect to his wrist is unknown.

16 60. Doctors have told Tony that his wounds introduced them to medically uncharted
17 waters—they have never before attempted to repair a wrist, with so much trauma and bone
18 loss. At a January 14, 2009 appointment, when pressed by Tony, one physician estimated that
19 there was a 60-70% chance that the latest bone graft procedure (performed in December 2008)
20 would hold, but that it would take approximately five years to know whether his bone would
21 fully redevelop. Assuming the graft holds, Tony has been told that he will likely need three to
22 five additional surgeries in the future to repair the remaining damage to his wrist, in addition to
23 the follow-up care, medication, and physical therapy.

24 61. Doctors have told Tony that the years of additional surgeries, pain, and disability
25 described above is the best possible outcome. But, they have also warned him that he will
26

1 suffer some permanent loss of use of his hand and wrist. Doctors estimate that there is a 30-
2 40% chance that the recent graft procedure will not be successful. If it is not, then he will
3 suffer far more dramatic damage and greater disability. Before amputation, doctors would first
4 attempt to implant a "mechanical structure" into his wrist, hoping that it would allow them to
5 perform additional surgeries to save his hand and wrist.

6 62. In addition to the concerns with respect to his wrist, Tony has suffered permanent
7 and life-long injuries. Even if Tony gains back full use of his wrist, doctors have told him to
8 expect a lifetime of pain and arthritis as a result of his wounds. The bullets that penetrated
9 Tony's knee and leg have left him with daily pain and swelling.

10 63. Doctors have told him that they are unsure about whether he will suffer any long-
11 term arterial damage and that he should, at least, expect to deal with increased pain and
12 arthritis throughout his left leg for the rest of his life. In addition, the surgeries performed to
13 date on his wrist required doctors to intentionally break Tony's right hip and remove fragments
14 of bone to place in his wrist.

15 64. As a result, Tony must now live with daily pain in his hip and doctors have also
16 warned him that he will endure lifetime of arthritis and discomfort. At the age of 35, Tony
17 now faces chronic arthritis and pain throughout his body that, for the rest of his life, will
18 greatly diminish the ability for him to live his life, engage in an active lifestyle, and do what
19 fathers love to do with his young sons. In addition, he has endured great pain and suffering
20 and emotional distress on the night of September 17 and afterward.

21 65. Tony's wife and young sons have suffered a tremendous amount of trauma from
22 their experience, as well. The family is under increased financial pressure, as Tony and Lesley
23 have been forced to take significant time off of work and have had to pay for increased medical
24 costs. Following the incident, Lesley was not able to work full time, was placed on temporary
25 medical leave, and has recently been laid-off. The family has also had to pay thousands of
26

1 dollars for the costs of repairing their home, cleaning the bloody carpets and walls, and fixing
2 shattered glass and bullet holes.

3 66. The family has also suffered significant emotional trauma, and Lesley and the
4 boys have all suffered a loss of consortium with Tony as the result of what happened.

5 67. The boys have seen a therapist and Lesley has also started therapy to deal with
6 the anxiety she has experienced since the incident. Her doctors initially placed her on
7 temporary leave and told her she needs some time away from work to heal.

8 68. Lesley, Matthew, and Zachary have all suffered physical effects of the emotional
9 trauma they experienced. Lesley even suffered bruises from the way in which the police
10 grabbed and controlled her that evening. All were in the zone of danger that September 17
11 evening, subjected to the outrageous conduct of the Police and fearful for their own safety and
12 for Tony's.

13 69. There is simply no excuse or defense for what was done to this family and no
14 tolerable justification for the way Police acted toward the Arambulas that night or afterward, in
15 attempting to cover-up their reckless and callously indifferent actions.

16 **Defendants' Outrageous Efforts to Blame the Arambulas for What Happened**

17 70. From the moment Officer Lilly shouted his admission: "we fucked up,"
18 Defendants engaged in a series of intentional acts and omissions designed not only to cover-up
19 their mistakes, but to ceaselessly and artificially shift blame to the Arambulas for what they so
20 carelessly did to Tony and his family.

21 71. For example, Defendants have contacted friends and neighbors of the Arambulas
22 with the design of tainting their memories and deflecting responsibility from their admitted
23 failures. Defendants told at least one neighbor, for example, that they had specifically warned
24 Tony to drop his weapon before they fired and that they had been shouting "Police" all the way
25 through the Arambulas' home and until the moment Officer Lilly fired, knowing that was not
26

1 true. Tony and Lesley certainly never heard such shouts, and the 911 tapes never recorded any
2 such warnings. Tellingly, even Officer Lilly admitted immediately after shooting that he had
3 simply heard noises and opened fire without caution or warning.

4 72. In addition, Defendants have engaged in a lowly attempt to sully the reputation
5 of their victims. For example, Defendants interviewed the firearms dealer who sold Tony one
6 of his handguns (knowing it was not even the gun used by Tony that evening) and suggested
7 that Tony may have illegally obtained weapons. The dealer, offended at such implications,
8 told them unequivocally that Tony had purchased his weapons legally and that he would not
9 help them promote their implications.

10 73. In addition, Defendants recently invited Tony to come to the Police station to
11 pick up his handguns, holsters, keys, and other items seized by the Police as evidence. When
12 Tony arrived at the station, he was asked to "wait in the lobby." While he waited, two Police
13 detectives asked him to come into their office, where they shut the door and began to question
14 him, suggesting that they had "discovered" two outstanding felony drug warrants in his name.
15 When Tony insisted that the detectives had mistaken him for someone else, they said, "You are
16 Tony Arambula, right?" The detectives asked for his date of birth and social security number
17 and suggested that they had already matched the information to two outstanding arrest warrants
18 in the states of Washington and Oregon. Tony told them that he had never even been to either
19 of those states, that he was in Arizona in January and February 2009 recovering from surgery
20 that resulted from being shot by Officer Lilly. The detectives then returned a few minutes later
21 saying they had "discovered" that not all of his information matched the warrants and that he
22 was free to go. But, they warned him to "be careful," suggesting that he might just be arrested
23 and taken to jail if he encountered any Police, because of the "confusion" regarding the
24 warrants.

1 74. This and other extreme and outrageous conduct by Defendants since the shooting
2 occurred has caused even more harm and emotional distress to the Arambulas and is further
3 evidence of the extent to which Defendants are apparently willing to go to cover-up their
4 supremely careless and tragic mistakes.

5 75. Of course, Defendants know that the Arambulas deserved none of this.
6 Defendants have made things worse for this family by attempting to manufacture negative
7 facts about the Arambulas or manufacture evidence which might divert blame for Defendants'
8 misconduct.

9 76. Phoenix PD is a good police department with a good reputation. But, like all
10 police departments, mistakes are made in the field; and this was an awful and unnecessary
11 mistake. But, rather than adhere to their core values or their department's motto to "protect
12 and serve," Defendants decided to attack their victims a second time in a dishonorable effort to
13 avoid their obvious responsibility and their tragic mistakes.

14 77. Wednesday night, September 17, 2008, Tony Arambula had an obvious and
15 honorable responsibility—to protect his wife and kids from an armed and crazed home invader.
16 He discharged his responsibility bravely, but with a cool head and a calm hand.

17 78. Wednesday night, September 17, 2008, Defendants' inexcusable ineptitude and
18 violations of their own procedures damaged Tony and his family forever.

19 79. Later, on Wednesday night, September 17, 2008, Defendants compounded those
20 injuries with the dishonorable insult of their clumsy attempt to cover-up their tragic mistakes.

21 **FIRST CLAIM FOR RELIEF**

22 **(Negligence—All Defendants)**

23 80. Plaintiffs re-allege and incorporate, by this reference, the claims, facts, and
24 allegations set forth in the paragraphs above, as if set forth fully herein.

1 81. Defendants have a statutory and common law duty to assure the safety and well-
2 being of persons in their care and custody—a duty that includes (without limitation) using only
3 necessary and reasonable force. Defendants also have a duty to provide proper care to the
4 citizens under their care, custody, and control, and a duty not to interfere with the relationship
5 between children and their husband and a wife and her husband.

6 82. The Officers breached their duties to Plaintiffs, as identified by the claims, facts,
7 and allegations set forth in the paragraphs above, by (among others and without limitation):
8 subjecting Tony to excessive and lethal force by shooting Tony in a manner that was excessive,
9 unreasonable, and unjustified under the circumstances; by failing to intervene to prevent
10 excessive force and indifference to Tony's medical needs; by failing to disclose, convey, and
11 share critical information about Tony before entering the home; by failing to appropriately care
12 for and treat Tony after shooting him, by ignoring his medical needs; by subjecting him to
13 emotional trauma by placing him in front of his wife and children; by failing to monitor or
14 assess his medical condition or get him treatment before moving him around his house and
15 then onto the hood of a hot squad car; by detaining and preventing Lesley and boys from
16 leaving the area of the home and unfairly interrogating and accusing her; by failing to properly
17 follow the applicable protocols, practices, policies, training, and standards of law enforcement;
18 by failing to properly supervise and train other officers and agents; and by improperly
19 investigating the Arambulas and covering-up their obvious mistakes.

20 83. The City and the Police are legally responsible for the screening, hiring, training,
21 retaining, and supervision of all employees and agents who have responsibility for the
22 processing, handling, and managing those in the care, custody, and control of the Police,
23 including those citizens encountered by the Police during their investigation and pursuit of
24 suspects and criminals. This responsibility includes (among other things and without
25 limitation) making certain that such employees and agents satisfy all federal, state, and
26

1 applicable standards. It also includes (among others and without limitation) making certain
2 that Police policies, procedures, practices, protocols, customs, and training satisfy all federal,
3 state, and applicable standards. And it also includes (among others and without limitation)
4 responding to known problems and/or improper customs, policies, practices, procedures,
5 training, and/or conditions. The City and Police were negligent in the performance of those
6 duties and responsibilities. The responsibility for overseeing the operations of the Police lies
7 with the City and its policymakers and/or supervisors. The City and Police breached the duties
8 to Plaintiffs, as identified by the claims, facts, and allegations set forth in the paragraphs above,
9 by (among others and without limitation): ratifying improper conditions, customs, policies,
10 procedures, and/or practices by inaction; implementing, utilizing, and/or permitting to exist
11 unreasonably dangerous policies, practices, protocols, customs, and training (or lack thereof)
12 with respect to (among others and without limitation) the use of force; approaching, arresting,
13 and/or responding to citizens; investigating and pursuing criminals and suspects; reporting,
14 communicating, conveying, and disseminating critical information in emergency situations;
15 proper protocols for issuing verbal commands and dealing with homeowners who have
16 detained intruders in their homes; proper monitoring, assessing, and treating of the medical
17 condition and needs of those in the care, custody, and control of the Police; and/or allowing
18 family members to accompany their loved-ones to the hospital and privately grieve their loss.

19 84. John Doe Supervisors and Jane Doe Supervisors, whose true identities and
20 responsibilities are not yet known or knowable by Plaintiffs but will be discovered through
21 litigation, have individual, supervisory responsibility for overseeing the operations of the
22 Police and the actions of the Officers underneath them, as well as ensuring that the Police are
23 provided with the proper training, education, resources, and knowledge necessary to comply
24 with applicable federal and state laws and standards. They are also responsible for ensuring
25 that every Police officer is properly qualified to perform the duties of the job, and that the
26

1 policies, procedures, customs, practices, and/or protocols of the Police are proper, legal, and
2 complied with. They are also responsible for taking appropriate measures to correct any
3 problems they aware or put on notice of with respect to the Police. Each of these supervisors
4 was negligent in the performance of such duties, as alleged herein this Complaint.

5 85. All of the individual Defendants were acting under color of law at all times
6 material hereto and within the normal course and scope of their employment.

7 86. Defendants, directly and through their employees and agents, were negligent in
8 the handling, treatment, and care of Tony, Lesley, Matthew, and Zachary, as identified by the
9 claims, facts, and allegations set forth in the paragraphs above.

10 87. Defendants breached their duties owed to Plaintiffs, as identified by the claims,
11 facts, and allegations set forth in the paragraphs above.

12 88. Defendants' breaches of their duties constitute negligence that was the proximate
13 cause of Plaintiffs' damages, having caused and/or contributed to cause their injuries and
14 suffering.

15 89. As the direct and proximate result of Defendants' negligence, Plaintiffs and have
16 suffered and will continue to suffer in the future a loss of love, affection, companionship, care,
17 protection, guidance, as well as pain, grief, sorrow, anguish, stress, shock, and mental
18 suffering, and economic and non-economic damages in an amount to be proven at trial.

19 90. The wrongful conduct and/or gross negligence of Defendants was malicious and
20 in reckless disregard of the rights of Plaintiffs and, as a result, punitive damages in an amount
21 to be determined by a jury should be awarded against each of Defendants to punish them for
22 their wrongdoing and to deter and prevent them and others from acting in a similar manner in
23 the future.

SECOND CLAIM FOR RELIEF
(Gross Negligence—All Defendants)

91. Plaintiffs re-allege and incorporate by reference the claims, facts, and allegations set forth in the paragraphs above, as if set forth fully herein.

92. Defendants acted and/or failed to act, despite knowing or having reason to know that Tony was in need of medical treatment and was inappropriately subjected to the force that was applied to him and that he was at risk of serious harm and injury.

93. Defendants failed to provide proper medical care to Tony and subjected him to reckless and excessive force, and/or failed to intervene to prevent excessive force, as alleged above, despite knowing that he was at risk of serious harm and injury.

94. Defendants also failed to safeguard and protect Lesley, Matthew, and Zachary, knowing they were at risk for serious harm and injury, as alleged above.

95. All of the individual Defendants were acting under color of law at all times material hereto and within the normal course and scope of their employment.

96. Defendants, directly and through their employees and agents, were negligent in the handling, treatment, and care of Tony, Lesley, Matthew, and Zachary, as identified by the claims, facts, and allegations set forth in the paragraphs above.

97. Defendants, directly and through their employees and agents, were reckless and/or grossly negligent in the handling, treatment, and care of Plaintiffs.

98. Defendants were reckless and/or grossly negligent in their failure to provide proper medical care to Tony, as identified by the claims, facts, and allegations set forth in the paragraphs above.

99. Defendants, directly and through their employees and agents, were reckless and/or grossly negligent in the use of excessive force on Tony, as identified by the claims, facts, and allegations set forth in the paragraphs above.

1 100. Defendants breached their duties owed to Plaintiffs, as identified by the claims,
2 facts, and allegations set forth in the paragraphs above.

3 101. The conduct and/or omissions of Defendants created an unreasonable and
4 reckless risk of bodily harm and/or serious injury to Plaintiffs.

5 102. The conduct and/or omissions of Defendants created the high probability that
6 substantial harm or injury would result, which it did.

7 103. Defendants' breaches of their duties constitute gross negligence, which was the
8 proximate cause of Plaintiffs' injuries and damages.

9 104. As the result of Defendants' gross negligence, Plaintiffs suffered injuries, have
10 suffered and will continue to suffer in the future a loss of love, affection, companionship, care,
11 protection, guidance, as well as pain, grief, sorrow, anguish, stress, shock, and mental
12 suffering, and have suffered both economic and non-economic damages in an amount to be
13 proven at trial.

14 105. The wrongful conduct and/or gross negligence of Defendants was malicious and
15 in reckless disregard of the rights of Plaintiffs and, as a result, punitive damages in an amount
16 to be determined by a jury should be awarded against each of Defendants to punish them for
17 their wrongdoing and to deter and prevent them and others from acting in a similar manner in
18 the future.

19 **THIRD CLAIM FOR RELIEF**

20 **(Violation of 42 U.S.C. § 1983: Unconstitutional Policies, Customs, and Failure to**
21 **Train—Defendants City, Police, and John Doe Supervisors and Jane Doe Supervisors)**

22 106. Plaintiffs re-allege and incorporate by reference their claims, facts, and
23 allegations contained in the paragraph above, as if set forth fully herein.

24 107. The City, Police, John Doe Supervisors, and Jane Doe Supervisors (in their
25 official capacities), directly and by and through their agents and official policymakers,
26

1 establish policy for the Police, oversee operations of the Police and the services provided by
2 them, evaluate, certify, and maintain the Police Department's compliance with applicable
3 standards, and are ultimately responsible for everything that happens in the City's Police
4 Department. Such actions constitute official municipal policy, customs, and practices.

5 108. The City, Police, John Doe Supervisors, and Jane Doe Supervisors (in their
6 official capacities) have oversight and supervisory responsibility over their officers,
7 employees, and agents with respect to Police matters. They are entities and/or municipalities,
8 directly liable under 42 U.S.C. § 1983.

9 109. Upon information and belief, the City, Police, John Doe Supervisors, and Jane
10 Doe Supervisors (in their official capacities) have long been on notice and had knowledge of
11 the dangerous and unconstitutional conditions that led to Doris' death.

12 110. Upon information and belief, despite their knowledge of and notice to them, the
13 City, Police, John Doe Supervisors, and Jane Doe Supervisors (in their official capacities) were
14 deliberately and callously indifferent in training (and/or failing to adequately train) Police
15 personnel, employees, and agents in (among other things) the appropriate, lawful and
16 constitutional policies, procedures, practices, protocols, and customs for the assessment,
17 provision of medical care, use of force, and the processing, evaluation, handling, management,
18 and restraint of citizens, and the other usual and recurring circumstances Police face, as alleged
19 herein.

20 111. Upon information and belief, despite their knowledge and notice, the City,
21 Police, John Doe Supervisors, and Jane Doe Supervisors (in their official capacities) were
22 deliberately and callously indifferent to the care and safety of citizens, through fostering,
23 encouraging, and knowingly accepting formal and informal Police policies or customs
24 condoning indifference to medical conditions and care and the use of excessive force and
25

1 improper restraint of citizens, such that bodily harm and other injury to citizens was likely to
2 occur in a manner similar to that of Plaintiffs, as alleged herein.

3 112. Upon information and belief, despite their knowledge and notice, the City,
4 Police, John Doe Supervisors, and Jane Doe Supervisors (in their official capacities) knew and
5 should have known that unconstitutional policies, procedures, practices, protocols, customs,
6 and training (or lack thereof) existed within the Police, and they failed to address these issues,
7 ratified them by inaction, and/or failed to establish and implement appropriate policies,
8 procedures, practices, protocols, customs, and training for providing medical care, using force
9 and restraints, and processing, handling, and managing citizens in the care, custody, and
10 control of the City in a manner that conformed to federal, state, and applicable standards.

11 113. Upon information and belief, despite their knowledge and notice, the City,
12 Police, John Doe Supervisors, and Jane Doe Supervisors (in their official capacities) permitted
13 and/or ratified the implementation of inappropriate, unconstitutional, *de facto* policies which
14 authorized, approved, condoned, and failed to provide appropriate medical evaluation and care
15 to citizens, failed to provide appropriate use of force and restraint, and failed to adequately
16 train and supervise Police personnel in these and other areas (without limitation), as alleged
17 herein.

18 114. These Defendants' deliberate, reckless, and callous indifference in failing to train
19 in these (and others without limitation) areas and the condoning and/or ratifying of such
20 policies, practices, procedures, protocols, and customs as described herein caused, substantially
21 contributed to, and/or was the moving force behind the violations of Plaintiffs' constitutional
22 and state law rights, as alleged herein.

23 115. The wrongful conduct of Defendants, as described herein, constitutes violations
24 of 42 U.S.C. § 1983, in that with deliberate and callous indifference, they deprived Plaintiffs of
25 rights, privileges, and immunities secured to them by the Constitution and laws of the United
26

1 States, including (among others and without limitation) the right to adequate medical care
2 while in the custody and control of law enforcement, the right to be free from law
3 enforcement's excessive force, and the right to the continued familial and societal relationship,
4 guaranteed by the Fourth, Eighth, and Fourteenth Amendments.

5 116. The wrongful conduct of Defendants constitutes violations of the United States
6 Constitution, Amendments IV, XIII, and XIV, in that Plaintiffs were deprived of the privileges
7 and immunities guaranteed to all citizens of the United States; were deprived of their life and
8 liberty without due process of law; were denied equal protection of the law; and were denied
9 their right to be free of unlawful punishment, to be free from excessive force, and to receive
10 adequate medical care.

11 117. The wrongful conduct of the other individually-named Defendants, was
12 malicious and in reckless disregard of the rights of Plaintiffs, and punitive damages in an
13 amount to be determined by a jury should be awarded against them to punish them for their
14 wrongdoing and to deter and prevent them and others from acting in a similar manner in the
15 future.

16 **FOURTH CLAIM FOR RELIEF**

17 **(Violation of 42 U.S.C. § 1983: Deliberate Indifference to Medical Needs and** 18 **Excessive Force—All Defendants)**

19 118. Plaintiffs re-allege and incorporate by reference all claims, facts, and allegations
20 set forth in the paragraphs above, as if set forth fully herein.

21 119. At all times material hereto, Defendants were acting under color of law and
22 within the course and scope of their employment.

23 120. Each of the Defendants demonstrated deliberate indifference to Tony's medical
24 needs and either used or caused to be used excessive force upon him or failed to act to prevent
25 the use of excessive force upon him, as alleged herein.

121. Defendants' acts and omissions, as alleged herein, constitute constitutional violations, including (among others and without limitation) deliberate indifference to serious medical needs and/or excessive force.

122. The wrongful conduct of Defendants as described herein proximately caused, substantially contributed to, and/or was the moving force behind the violations of Plaintiffs' rights and Plaintiffs' injuries and damages.

123. The wrongful conduct of Defendants as described herein constitutes violations of 42 U.S.C. § 1983, in that with deliberate and callous indifference and/or excessive force, they deprived Plaintiffs of rights, privileges, and immunities secured to them by the Constitution and laws of the United States.

124. The wrongful conduct of Defendants as described herein violated Plaintiffs' rights under the Fourth Amendment, Eighth Amendment, and Fourteenth Amendment of the United States Constitution, in that they were deprived of the rights, privileges, and immunities guaranteed to all citizens of the United States; were deprived of life and liberty without due process of law; were denied equal protection of the law; were denied proper medical treatment; and were subjected to unlawful and improper punishment.

125. The actions of Defendants acting in their individual capacities, were malicious or reckless in disregard of the rights of Plaintiffs and punitive damages in an amount to be determined by a jury should be awarded against each of them to punish each of them for their wrongdoing and to deter and prevent them and others from acting similarly in the future.

FIFTH CLAIM FOR RELIEF

(False Arrest; Unlawful Detention; False Imprisonment - All Defendants)

126. Plaintiffs re-allege and incorporate by reference all claims, facts, and allegations set forth in the paragraphs above, as if set forth fully herein.

1 127. Defendants intentionally, unlawfully, and/or without lawful authority, arrested
2 and/or detained Plaintiffs without their consent.

3 128. Defendants intentionally, willfully, and/or without lawful authority also
4 prevented Plaintiffs Lesley, Matthew, and Zachary from accompanying Tony to the hospital
5 and from speaking with him or finding out about the status of his injuries.

6 129. Defendants' arrest and/or detention of Plaintiffs was unlawful and without
7 consent.

8 130. Defendants' unlawful detention, false arrest, and/or false imprisonment deprived
9 Plaintiffs of their liberty and freedom, in contravention of the guarantees of the Fourth
10 Amendment to the United States Constitution and Arizona law.

11 131. Defendants' unlawful detention, false arrest, and/or false imprisonment violated
12 Plaintiffs' constitutional and Arizona-law rights, in violation of 42 U.S.C. § 1983 and Arizona
13 law.

14 132. As a result of Defendants' unlawful detention, false arrest, and/or false
15 imprisonment, Plaintiffs have suffered harm in an amount to be proven at trial.

16 **SIXTH CLAIM FOR RELIEF**

17 **(Violations of Arizona Law: Emotional Distress - All Defendants)**

18 133. Plaintiffs re-allege and incorporate by reference all claims, facts, and allegations
19 set forth in the paragraphs above, as if set forth fully herein.

20 134. Defendants' acts and/or omissions negligently and/or intentionally inflicted
21 emotional distress upon Plaintiffs, including such things as (among others and without
22 limitation) their callous treatment of and/or use of excessive force upon Tony knowing that
23 Lesley, Matthew, and Zachary were present and in close proximity; their callous treatment to
24 prevent Plaintiffs from accompanying Tony to the hospital; their callous treatment of Plaintiffs
25 to drag Tony, shot and bleeding, out of the home and leaving him on the ground right in front
26

1 of Lesley, Matthew, and Zachary; their failure to protect Lesley, Matthew, and Zachary and
2 concomitant use of force and gun shots knowing that Lesley, Matthew, and Zachary would fear
3 for their safety and Tony's safety; and their use of excessive force upon and callous treatment
4 of Tony.

5 135. Defendants were aware that Lesley, Matthew, and Zachary were the wife and
6 sons of Tony and that they were present for all material times.

7 136. Defendants' acts and omissions were shocking, extreme and outrageous, and
8 beyond all possible realms of decency.

9 137. Defendants' acts and omissions were intentionally aimed at causing Plaintiffs'
10 emotional distress and/or were recklessly in disregard of the near certainty that emotional
11 distress would result from their misconduct.

12 138. Defendants' acts and omissions constitute negligent, reckless, and/or intentional
13 infliction of emotional distress.

14 139. As a direct and proximate cause of Defendants' intentional, reckless, and/or
15 negligent infliction of emotional distress, Plaintiffs have suffered severe emotional distress and
16 harm in an amount to be proven at trial.

17 **JURY TRIAL**

18 140. Plaintiffs hereby request and demand a trial by jury.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiffs pray for damages for judgment against Defendants as follows:

- 21 a) General damages in an amount to be proven at trial, as to the causes of action,
22 claims, and theories of relief alleged herein;
- 23 b) Punitive damages in an amount deemed just and reasonable against the
24 individual Defendants as to the causes of action, claims, and theories of relief
25 alleged herein;
- 26

- 1 c) Costs and attorneys' fees against all Defendants as to the causes of action,
2 claims, and theories of relief alleged herein under the Constitution and laws of
3 the United States, pursuant to 42 U.S.C. § 1988;
4 d) Economic and non-economic damages pursuant to applicable Arizona and
5 federal law;
6 e) The costs of litigation;
7 f) All remedies provided by 42 U.S.C. § 1983; and
8 g) Such other and further relief which may seem just and reasonable under the
9 circumstances.

10 DATED this 16th day of September, 2009.

11 STINSON MORRISON HECKER LLP

12
13 By: 

14 Michael C. Manning
15 Leslie E. O'Hara
16 John T. White
17 1850 North Central Avenue, Suite 2100
18 Phoenix, Arizona 85004-4584
19 Attorneys for Plaintiffs

20 ORIGINAL filed this 16th day of
21 September, 2009:

22 Clerk of the Court
23 Maricopa County Superior Court
24 101/201 West Jefferson
25 Phoenix, Arizona 85003

26 

EXHIBIT A

Call #5: F1871
 Anthony Arambula
 3126 E. Flower
 Incident No. 081601871
 Time Received: 20:04:19

Time lapsed	Speaker	
0:00	Arambula:	I want to see your hands.
0:02	911:	911, what is the location of the emergency?
0:04	Arambula:	3126 East Flower
0:06	911:	What's the emergency?
0:07	Arambula:	I just heard gunshots through my window.
0:09	Canales:coming too.
0:11	911:	Is anybody in your house?
0:12	Arambula:	I don't know yet,. But I have two kids here.
0:14	911: (simultaneous)	Okay, Sir, I want you to check your children immediately. Check your children.
0:15	Arambula: (simultaneous)	I have a man in my house and I have him at gunpoint.
0:17	911:	Check your children. I'll get some help started. Check your family, Sir.
0:20		[screaming, sound of gunshots fired.]
0:24	Arambula:	I'm sorry, I'm right here, I'm right here. I'm the homeowner. You just killed, you killed the homeowner. The bad guy's in here.
0:33	Police:	Get out, get out, get out man, get out.
0:36	911:	What's going on sir?
0:37	Arambula:	Oh, my God. Oh, my God.
0:40	911:	Sir, what's happening?
0:41	Arambula:	I'm the homeowner.
0:42	Police:	998
0:43	Arambula:	I'm the homeowner.
0:44	Police:	Right now.
0:45	911:	What's happening, Sir?
0:48	Arambula:	Call 911. I just died. Please.
0:52	911:	Sir, I've got help coming, tell me what happened.
0:54	Arambula:	I could die
0:56	Police:	Okay.
0:58	Arambula:	You I can't believe this is happening to me.
1:01	Police:	it out me now.
1:02	911:	Sir, can you tell me what's going on?
1:05	Arambula:	Oh, my God.
1:07	911:	Sir?
1:08	Arambula:	Oh, my God.
1:09	Police:	Where's the gun? Is there a gun inside there, Sir?
1:11	Police	[inaudible]
1:13	Police:	Okay.

Time lapsed	Speaker	
1:16	Police	Fuck
1:17	911:	Sir?
1:17	Police:	71. We have him contained in the west bedroom.
1:20	Police: (multiple voices yelling)	Get out here now. Get on the ground right now. Roll your ass out of here right now, Mother Fucker. Get down. Get your ass out here.
1:30		[Beep, beep beep sound of 911 calling Fire]
1:34	Police:	Get the fuck out. Right now Mother Fucker.
1:42	Fire:	Fire Department. What's the address?
1:42	Police: (multiple voices)	[inaudible voices in the background]
1:43	911:	Say, I've got someone saying there are shots fired at 3126 East Flower. I'm not getting any response from my caller. I just wanted to get you on the line with me and do whatever you need to do, but they're not answering. I've heard shots over the phone and heard someone yelling. I think someone's hurt, but I don't know.
1:59	Fire:	Okay. I'll let the supervisor know. Thank you.
2:03	Police:	What's your address?
2:04	911:	Okay. Okay. I guess we're on scene. It's some kind of officer involved shooting. Do you want to stage? I don't even know if anybody's been shot.
2:12	Police:	[inaudible voices in the background]
2:15	Fire:	Yeah. Yeah. You're gonna have to let us know.
2:19	911:	Okay. I'll say Fire advised and needs to be advised.
2:21	Fire:	Sounds good.
2:22	911:	Okay. Thank you.
2:23	Fire:	Thank you. Bye, bye.
2:24	Arambula:	I can't breathe. I can't breathe.
2:26	Police:	Shut the fuck up.
2:26	Arambula:	Officer, why did you kill me?
2:30	Police:	Here, I got him. You guys hold on the bedroom.
2:42	Police:	We just fucking shot a man.
2:48	Arambula:, I love you.
2:51	Police:	Fuck.
2:52	Arambula:	I love you.
2:58	Police:	[inaudible voices in the background]
3:04	Police:	[inaudible voice over the radio]
3:38	Police:	Alright, back out. [inaudible]
3:47	Arambula:	Hey.
3:50	911:	Sir, are you there? Hello?
4:08	Arambula:	I need help.
4:10	Police:	Fire's coming buddy. Fire's coming.
4:20	911:	Sir, has anybody injured in your home? Sir? Sir?
		(lots of noise and talking in the background)
4:47	911:	Sir, this is the police department. Are you on the line?

Time lapsed	Speaker	
		Can you advise me if anybody has been injured inside your home? Hello?
		(talking in background.)
5:25	911: (to someone there with her)	Hey Tammy. I heard my guy yelling "I need help" but I cannot....(inaudible) yelling "I need help." (inaudible) Okay.
		(talking in background)
5:58	Police:	(inaudible) we fucked up. (inaudible)
5:59	Lilly:	I fucking shot this guy. (inaudible) fucked up.
6:04	911:	Sir? Sir?
		(talking in background.)
6:07	Lilly:	Someone came out of the fucking room.
6:10	Coutts:	Was the gun down here?
6:13	Lilly:	I don't know. I heard screaming and I (inaudible) fire
6:15	Coutts:	That's alright. (talking at same time as Lilly)
6:16	Coutts:	Don't worry about it. I got your back.
6:20	Coutts:	We clear?
6:21	Operator:	3126.
		(talking in background)
6:44	Operator:but he's not responding to me.
		(talking in background)
7:25	Police on radio:	Ok. Officers inside of that house we're just getting Fire to (inaudible)
7:50	Operator:	Hello?
		(inaudible talking in the background)
7:54	Police on radio:for the time being. I want all responding officers to just go ahead and.....32 nd street and Flower. All responding officers.
8:13	Police:the back of the house
		(inaudible talking in the background)
9:07	Police on radio:	...up here to stand by the shooting officer.
		(inaudible talking in the background)
9:39	Police:there is to be no one else inside that house. (inaudible)
		(inaudible talking in the background)
10:00		...evac the subject to
10:02		[alarm sound]
10:10		(no more background sounds)
11:10		[audio recording ends]

EXHIBIT 2

COPY

SEP 16 2009



MICHAEL N. JAMES, CLERK
E. PEREZ
DEPUTY CLERK

1 Michael C. Manning (#016255)
Leslie E. O'Hara (#005923)
2 John T. White (#022091)
STINSON MORRISON HECKER LLP
3 1850 North Central Avenue, Suite 2100
Phoenix, Arizona 85004-4584
4 Tel: (602) 279-1600
Fax: (602) 240-6925
5 Email: mmanning@stinson.com
Attorneys for Plaintiffs

7 **SUPERIOR COURT OF ARIZONA**

8 **MARICOPA COUNTY**

9
10 ANTHONY ARAMBULA and LESLEY
ARAMBULA, husband and wife;
11 MATTHEW ARAMBULA and
ZACHARY ARAMBULA, through their
12 mother and next friend, LESLEY
ARAMBULA,
13 Plaintiffs,

14 v.

15 CITY OF PHOENIX, a public entity;
CITY OF PHOENIX POLICE
DEPARTMENT; DZENAN
16 AHMETOVIC AND JANE DOE
AHMETOVIC, husband and wife; SEAN
17 COUTTS AND JANE DOE COUTTS,
husband and wife; BRIAN LILLY AND
18 JANE DOE LILLY, husband and wife;
JOHN DOE OFFICERS I-X; JANE DOE
19 OFFICERS I-X; JOHN DOE
SUPERVISORS I-X; JANE DOE
20 SUPERVISORS I-X; JOHN DOES I-X;
JANE DOES I-X; BLACK
21 CORPORATIONS I-X; and WHITE
PARTNERSHIPS I-X,

22 Defendants.
23
24

No.

CV2009-029358

**CERTIFICATE RE COMPULSORY
ARBITRATION**

1 The undersigned counsel certifies that the amount in controversy in this action exceeds
2 the local limits prescribed by the local rules and, pursuant to Rule 72 of the Arizona Rules of
3 Civil Procedure, this action is *not* subject to compulsory arbitration.

4 RESPECTFULLY SUBMITTED this 16th day of September, 2009.

5 STINSON MORRISON HECKER LLP

6 By: 

7 Michael C. Manning
8 Leslie E. O'Hara
9 John T. White
10 1850 North Central Avenue, Suite 2100
11 Phoenix, Arizona 85004-4584
12 Attorneys for Plaintiffs

13 ORIGINAL filed this 16th day of
14 September, 2009:

15 Clerk of the Court
16 Maricopa County Superior Court
17 101/201 West Jefferson
18 Phoenix, Arizona 85003

19 
20
21
22
23
24
25
26

CITY CLERK DEPT.

27 SEP 16 PM 4:40

ps

RECEIVED

CITY OF PHOENIX

2009 SEP 16 PM 4:40

CITY ATTORNEY'S OFFICE

Michael C. Manning (#016255)
Leslie E. O'Hara (#005923)
John T. White (#022091)
STINSON MORRISON HECKER LLP
1850 North Central Avenue, Suite 2100
Phoenix, Arizona 85004-4584
Tel: (602) 279-1600
Fax: (602) 240-6925
Email: mmanning@stinson.com
Attorneys for Plaintiffs

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

ANTHONY ARAMBULA and LESLEY
ARAMBULA, husband and wife;
MATTHEW ARAMBULA and ZACHARY
ARAMBULA, through their mother and next
friend, LESLEY ARAMBULA,

Plaintiffs,

v.

CITY OF PHOENIX, a public entity; CITY
OF PHOENIX POLICE DEPARTMENT;
DZENAN AHMETOVIC AND JANE DOE
AHMETOVIC, husband and wife; SEAN
COUTTS AND JANE DOE COUTTS,
husband and wife; BRIAN LILLY AND
JANE DOE LILLY, husband and wife;
JOHN DOE OFFICERS I-X; JANE DOE
OFFICERS I-X; JOHN DOE
SUPERVISORS I-X; JANE DOE
SUPERVISORS I-X; JOHN DOES I-X;
JANE DOES I-X; BLACK
CORPORATIONS I-X; and WHITE
PARTNERSHIPS I-X,

Defendants.

No.

CV2009-029358

SUMMONS

Sponsored by the
Maricopa County Bar Association

www.lawyerfinders.org

or

602-267-4434

contact the Lawyer Referral Service at
if you would like legal assistance from a lawyer.

THE STATE OF ARIZONA TO THE DEFENDANT:

City of Phoenix

1 YOU ARE HEREBY SUMMONED and required to appear and defend, within the time
2 applicable, in this action in this Court. If served within Arizona, you shall appear and defend
3 within 20 days after the service of the Summons and Complaint upon you, exclusive of the day
4 of service. If served out of the State of Arizona -- whether by direct service, by registered or
5 certified mail, or by publication -- you shall appear and defend within 30 days after the service
6 of the Summons and Complaint upon you is complete, exclusive of the day of service. Where
7 process is served upon the Arizona Director of Insurance as an insurer's attorney to receive
8 service of legal process against it in this state, the insurer shall not be required to appear,
9 answer or plead until expiration of 40 days after date of such service upon the Director.
10 Service by registered or certified mail without the State of Arizona is complete 30 days after
11 the date of filing the receipt and affidavit of service with the Court. Service by publication is
12 complete 30 days after the date of first publication. Direct service is complete when made.
13 Service upon the Arizona Motor Vehicle Superintendent is complete 30 days after filing the
14 Affidavit of Compliance and return receipt or Officer's Return. RCP 4; ARS §§ 20-222, 28-
15 502, 28-503.

16 YOU ARE HEREBY NOTIFIED that in case of your failure to appear and defend
17 within the time applicable, judgment by default may be rendered against you for the relief
18 demanded in the Complaint.

19 YOU ARE CAUTIONED that in order to appear and defend, you must file an Answer
20 or proper response in writing with the Clerk of this Court, accompanied by the necessary filing
21 fee, within the time required, and you are required to serve a copy of any Answer or response
22 upon the plaintiff's attorney. RCP 10(d); ARS § 12-311; RCP 5.

23 The names and addresses of plaintiffs' attorneys are:

24 Michael C. Manning (#016255)
25 STINSON MORRISON HECKER L.L.P.
26 1850 North Central Avenue, Suite 2100
Phoenix, Arizona 85004
(602) 279-1600

SIGNED AND SEALED this date:

Michael K. Jeanes, Clerk

By _____

Deputy Clerk

COPY
SEP 16 2009



CITY CLERK DEPT.

SEP 16 2009 5

CITY ATTORNEY'S OFFICE

2009 SEP 16 PM 4:40

RECEIVED
CITY OF PHOENIX

Michael C. Manning (#016255)
Leslie E. O'Hara (#005923)
John T. White (#022091)
STINSON MORRISON HECKER LLP
1850 North Central Avenue, Suite 2100
Phoenix, Arizona 85004-4584
Tel: (602) 279-1600
Fax: (602) 240-6925
Email: mmanning@stinson.com
Attorneys for Plaintiffs

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

CV2009-029358

ANTHONY ARAMBULA and LESLEY
ARAMBULA, husband and wife;
MATTHEW ARAMBULA and ZACHARY
ARAMBULA, through their mother and next
friend, LESLEY ARAMBULA,

Plaintiffs,

v.

CITY OF PHOENIX, a public entity; CITY
OF PHOENIX POLICE DEPARTMENT;
DZENAN AHMETOVIC AND JANE DOE
AHMETOVIC, husband and wife; SEAN
COUTTS AND JANE DOE COUTTS,
husband and wife; BRIAN LILLY AND
JANE DOE LILLY, husband and wife;
JOHN DOE OFFICERS I-X; JANE DOE
OFFICERS I-X; JOHN DOE
SUPERVISORS I-X; JANE DOE
SUPERVISORS I-X; JOHN DOES I-X;
JANE DOES I-X; BLACK
CORPORATIONS I-X; and WHITE
PARTNERSHIPS I-X,

Defendants.

No.

SUMMONS

Sponsored by the
Maricopa County Bar Association

www.lawyerfinders.org

or

602-257-4434

If you should have legal questions or a lawyer,
contact the Lawyer Referral Service at

THE STATE OF ARIZONA TO THE DEFENDANT:

City of Phoenix Police Department

YOU ARE HEREBY SUMMONED and required to appear and defend, within the time applicable, in this action in this Court. If served within Arizona, you shall appear and defend within 20 days after the service of the Summons and Complaint upon you, exclusive of the day of service. If served out of the State of Arizona -- whether by direct service, by registered or certified mail, or by publication -- you shall appear and defend within 30 days after the service of the Summons and Complaint upon you is complete, exclusive of the day of service. Where process is served upon the Arizona Director of Insurance as an insurer's attorney to receive service of legal process against it in this state, the insurer shall not be required to appear, answer or plead until expiration of 40 days after date of such service upon the Director. Service by registered or certified mail without the State of Arizona is complete 30 days after the date of filing the receipt and affidavit of service with the Court. Service by publication is complete 30 days after the date of first publication. Direct service is complete when made. Service upon the Arizona Motor Vehicle Superintendent is complete 30 days after filing the Affidavit of Compliance and return receipt or Officer's Return. RCP 4; ARS §§ 20-222, 28-502, 28-503.

YOU ARE HEREBY NOTIFIED that in case of your failure to appear and defend within the time applicable, judgment by default may be rendered against you for the relief demanded in the Complaint.

YOU ARE CAUTIONED that in order to appear and defend, you must file an Answer or proper response in writing with the Clerk of this Court, accompanied by the necessary filing fee, within the time required, and you are required to serve a copy of any Answer or response upon the plaintiff's attorney. RCP 10(d); ARS § 12-311; RCP 5.

The names and addresses of plaintiffs' attorneys are:

Michael C. Manning (#016255)
STINSON MORRISON HECKER L.L.P.
1850 North Central Avenue, Suite 2100
Phoenix, Arizona 85004
(602) 279-1600

SIGNED AND SEALED this date:

Michael K. Jeanes, Clerk

By _____

Deputy Clerk

COPY

SEP 16 2009



MICHAEL K. JEANES, CLERK
E. PEREZ
DEPUTY CLERK

EXHIBIT 3

Kathleen L. Wieneke, Bar #011139
Christina Retts, Bar #023798
JONES, SKELTON & HOCHULI, P.L.C.
2901 North Central Avenue, Suite 800
Phoenix, Arizona 85012
Telephone: (602) 263-1771
Fax: (602) 200-7858
kwieneke@jshfirm.com
cretts@jshfirm.com
minuteentries@jshfirm.com

Attorneys for Defendants City of Phoenix,
and City of Phoenix Police Department

SUPERIOR COURT OF THE STATE OF ARIZONA

COUNTY OF MARICOPA

ANTHONY ARAMBULA and LESLEY
ARAMBULA, husband and wife; MATTHEW
ARAMBULA and ZACHARY ARAMBULA,
through their mother and next friend, LESLEY
ARAMBULA,

Plaintiffs,

v.

CITY OF PHOENIX, a public entity; CITY
OF PHOENIX POLICE DEPARTMENT;
DZENAN AHMETOVIC and JANE DOE
AHMETOVIC, husband and wife; SEAN
COUTTS and JANE DOE COUTTS, husband
and wife; BRIAN LILLY and JANE DOE
LILLY, husband and wife; JOHN DOE
OFFICERS I-X; JANE DOE OFFICERS I-X;
JOHN DO SUPERVISORS I-X; JANE DOE
SUPERVISORS I-X; JOHN DOES I-X; JANE
DOES I-X; BLACK CORPORATIONS I-X;
and WHITE PARTNERSHIPS I-X,

Defendants.

NO. CV2009-029358

(Assigned to the Honorable Sam
Myers)

**NOTICE OF FILING NOTICE OF
REMOVAL**

Defendants City of Phoenix and City of Phoenix Police Department, by and
through undersigned counsel, pursuant to 28 U.S.C. § 1441, et seq. notify this Court that
they filed a Notice of Removal of this action to the United States District Court for the
District of Arizona. A copy of the Notice of Removal (exclusive of exhibits) is attached
as Exhibit A.

1
2 DATED this 6th day of October, 2009.

3 JONES, SKELTON & HOCHULI, P.L.C.

4
5 By 

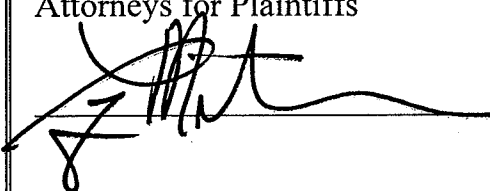
Kathleen L. Wieneke
Christina Retts
2901 North Central Avenue, Suite 800
Phoenix, Arizona 85012
Attorneys for Defendants City of Phoenix,
and City of Phoenix Police Department

6
7
8
9 ORIGINAL of the foregoing mailed
10 this 6th day of October, 2009.

11 Clerk of the Court
12 Maricopa County Superior Court
101/201 West Jefferson
Phoenix, AZ 85003

13 COPY of the foregoing mailed
14 this 6th day of October, 2009, to:

15 Michael C. Manning
16 Leslie E. O'Hara
17 John T. White
Stinson Morrison Hecker LLP
18 1850 North Central Avenue, Suite 2100
Phoenix, Arizona 85004

19 Attorneys for Plaintiffs
20 
21
22
23
24
25
26
27
28

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

ANTHONY ARAMBULA and LESLEY ARAMBULA, et al.

(b) County of Residence of First Listed Plaintiff Maricopa County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Michael Manning/Leslie O'Hara/John White; Stinson Morrison
Hecker; 1850 N. Central, Ste 2100; Phx 85004 (602) 279-1600

DEFENDANTS

CITY OF PHOENIX, et al.

County of Residence of First Listed Defendant Maricopa County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

Kathleen Wieneke/Christina Retts; Jones, Skelton & Hochuli;
2901 N. Central, Ste 800; Phx 85012; (602) 263-1726

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property		LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. 1983

Brief description of cause:
Civil Rights - 4th, 8th, 14th Amendments; Tort

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

10/06/2009

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

SUPPLEMENTAL CIVIL COVER SHEET FOR CASES REMOVED FROM ANOTHER JURISDICTION

This form must be attached to the Civil Cover Sheet at the time
the case is filed in the United States District Clerk's Office.
Additional sheets may be used as necessary.

1. **Style of the Case:**

Please include all Plaintiff(s), Defendant(s), Intervenor(s), Counterclaimant(s), Crossclaimant(s) and Third Party Claimant(s) still remaining in the case and indicate their party type. Also, please list the attorney(s) of record for each party named and include their bar number, firm name, correct mailing address, and phone number (including area code).

<u>Party</u>	<u>Party Type</u>	<u>Attorney(s)</u>
Anthony Arambula	Plaintiff	Michael C. Manning, #016255 Leslie E. O'Hara, #005923 John T. White, #022091 Stinson Morrison Hecker LLP 1850 N. Central Ave., Ste. 2100 Phoenix, AZ 85004-4584 602-279-1600
Lesley Arambula	Plaintiff	Michael C. Manning, #016255 Leslie E. O'Hara, #005923 John T. White, #022091 Stinson Morrison Hecker LLP 1850 N. Central Ave., Ste. 2100 Phoenix, AZ 85004-4584 602-279-1600
Matthew Arambula	Plaintiff	Michael C. Manning, #016255 Leslie E. O'Hara, #005923 John T. White, #022091 Stinson Morrison Hecker LLP 1850 N. Central Ave., Ste. 2100 Phoenix, AZ 85004-4584 602-279-1600
Zachary Arambula	Plaintiff	Michael C. Manning, #016255 Leslie E. O'Hara, #005923

<u>Party</u>	<u>Party Type</u>	<u>Attorney(s)</u>
		John T. White, #022091 Stinson Morrison Hecker LLP 1850 N. Central Ave., Ste. 2100 Phoenix, AZ 85004-4584 602-279-1600
City of Phoenix	Defendant	Kathleen L. Wieneke, #011139 Christina Retts, #023798 Jones Skelton & Hochuli 2901 N. Central Ave., Ste. 800 Phoenix, AZ 85012 602-263-1700
City of Phoenix Police Department	Defendant	Kathleen L. Wieneke, #011139 Christina Retts, #023798 Jones Skelton & Hochuli 2901 N. Central Ave., Ste. 800 Phoenix, AZ 85012 602-263-1700
Dzenan Ahmetovic	Defendant	
Sean Coutts	Defendant	
Brian Lilly	Defendant	

2. Jury Demand:

Was a Jury Demand made in another jurisdiction? Yes X No

If "Yes," by which party and on what date?

3. Answer:

Was an Answer made in another jurisdiction? Yes No X

If "yes," by which party and on what date?

4. Served Parties:

The following parties have been served at the time this case was removed:

<u>Party</u>	<u>Date Served</u>	<u>Method of Service</u>
City of Phoenix	September 16, 2009	Process server
City of Phoenix Police Department	September 16, 2009	Process server

5. Unserved Parties:

The following parties have not been served at the time this case was removed:

<u>Party</u>	<u>Reason Not Served</u>
Dzenan Ahmetovic	Plaintiff has not served this Defendant
Sean Coutts	Plaintiff has not served this Defendant
Brian Lilly	Plaintiff has not served this Defendant

6. Nonsuited, Dismissed or Terminated Parties:

Please indicate changes from the style of the papers from another jurisdiction and the reason for the change:

<u>Party</u>	<u>Reason for Change</u>
--------------	--------------------------

7. Claims of the Parties:

The filing party submits the following summary of the remaining claims of each party in this litigation:

<u>Party</u>	<u>Claim(s)</u>
City of Phoenix	Plaintiffs allege: violation of 4th, 8th, 14th Amendments; negligence; gross negligence; failure to train; false arrest; false imprisonment; and emotional distress.
City of Phoenix Police Department	Plaintiffs have agreed to voluntarily dismiss this party.
Dzenan Ahmetovic	Plaintiffs allege: violation of 4th, 8th, 14th Amendments; negligence; gross negligence; failure to train; false arrest; false imprisonment; and emotional distress.

<u>Party</u>	<u>Claim(s)</u>
Sean Coutts	Plaintiffs allege: violation of 4th, 8th, 14th Amendments; negligence; gross negligence; failure to train; false arrest; false imprisonment; and emotional distress.
Brian Lilly	Plaintiffs allege: violation of 4th, 8th, 14th Amendments; negligence; gross negligence; failure to train; false arrest; false imprisonment; and emotional distress.

Pursuant to 28 USC § 1446(a) a copy of all process, pleadings, and orders served in another jurisdiction (State Court) shall be filed with this removal.